

1 WRIGHT, FINLAY & ZAK, LLP
 2 Nichole Glowin, Esq., SBN 262932
 3 4665 MacArthur Court, Suite 280
 4 Newport Beach, CA 92660
 (949) 477-5050; Fax: (949) 477-9200
 nglowin@wrightlegal.net

5 Attorneys' for Defendants,
 6 BAC HOME LOANS SERVICING, LP f/k/a COUNTRYWIDE HOME LOANS SERVICING,
 7 LP and SETERUS, INC., as the authorized subservicer for Federal National Mortgage
 Association ("Fannie Mae"), Creditor c/o Seterus, Inc. erroneously sued herein as SETERUS,
 8 INC.

9 UNITED STATES BANKRUPTCY COURT

10 EASTERN DISTRICT OF CALIFORNIA- SACRAMENTO DIVISION

11 In Re:) Chapter: 13
 12)
 13 ARSENIO A. SANTOS and MARTHA G.) BK Case No.: 09-33746
 14 SANTOS,) Adversary Case No.: 13-02346
 15 Debtors.)
 16 ARSENIO A. SANTOS and MARTHA G.) **ORDER ON MOTION TO DISMISS**
 17 SANTOS,) **ADVERSARY COMPLAINT**
 18 Plaintiffs,)
 19 vs.) Hearing Date: January 6, 2014
 20 BAC HOME LOANS SERVICING, LP) Hearing Time: 10:00 a.m.
 21 f/k/a COUNTRYWIDE HOME LOANS) Crtrm: 28, Dept.: A
 22 SERVICING, LP.; SETERUS, INC. and) Location: 501 I Street
 23 DOES 1 through 10, inclusive,) Sacramento, CA 95814
 24 Defendants.)
 25)
 26)

27 The above-captioned matter came on for hearing on January 6, 2014 and was resolved
 28 after oral argument, in the courtroom of the Honorable Michael S. McManus, upon the Motion of
 Defendants BAC HOME LOANS SERVICING, LP f/k/a COUNTRYWIDE HOME LOANS

1 SERVICING, LP (“BAC”) and SETERUS, INC., as the authorized subservicer for Federal
2 National Mortgage Association (“Fannie Mae”), Creditor c/o Seterus, Inc. erroneously sued
3 herein as SETERUS, INC. (“Seterus”) (sometimes hereinafter collectively referred to as
4 “Defendants”), for dismissal of the above-referenced Adversary Complaint (“Adversary
5 Complaint”) of Plaintiffs ARSENIO A. SANTOS and MARTHA G. SANTOS (“hereinafter
6 collectively referred to as “Plaintiffs”) pursuant to Federal Rule of Civil Procedure 12(b)(6) for
7 failure to state a claim.

8 Appearances are as noted on the record.

9 Based upon the moving papers, the opposition and reply papers, if any, the arguments of
10 counsel and for good cause appearing, the Court rules as follows:

11 **IT IS HEREBY ORDERED:**

12 1) That Defendants’ Motion to Dismiss the Adversary Complaint of Plaintiffs is
13 granted without leave to amend as to the first cause of action for Declaratory Relief.
14 2) That Defendants’ Motion to Dismiss is denied without prejudice as to all other
15 causes of action set forth in Plaintiffs’ Adversary Complaint.
16 3) That Defendants have fourteen (14) days from the date of the hearing on the
17 Motion to Dismiss to file a responsive pleading to Plaintiff’s Adversary Complaint.

18
19 Dated: January 17, 2014

By the Court



Michael S. McManus
United States Bankruptcy Judge

20
21
22
23
24
25
26
27
28